

## Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact: [REDACTED]

Release of information

Telephone Number: [REDACTED]

Date 2/25/91

Refer Reply to: [REDACTED]

Surname [REDACTED]

Date:

DEC 26 1990

DO: [REDACTED]  
EIN: [REDACTED]

Dear Applicant:

This is in reply to your application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code.

We have reviewed the materials you have submitted and have concluded that you do not qualify for recognition of exemption under section 501(c)(3) of the Code because you are not operated exclusively for an exempt purpose within the meaning of this subsection of the Code.

The information you have submitted indicates that you were incorporated to make contributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Code. Your bylaws state that you will be providing strategic business planning, business management expertise, marketing and sales plans, business start-up and turn-around acumen on a consultation basis, and provide investment fund vehicles. In your letter of [REDACTED], you state that your purpose is to promote Christian, biblically-based principles in the daily workplace and the daily family lives of needy people who either operate small businesses or wish to start small businesses. You never further define the term "needy". Therefore, you have yet to establish that the individuals you are assisting constitute a charitable class. In fact, in your letter of [REDACTED], you specifically state that you do not limit potential recipients to members of a charitable class.

The sole activities you have engaged in to date are to have purchased a 50 percent equity interest in a corporation and to make an interest bearing loan to the same corporation with interest set at 1/2 percent below prime. The materials concerning the selection of this company as a recipient of your benevolence do not establish that need or the nature of the organization's program entered into your consideration. Rather your selection appears to be based, to a certain degree, upon the religious background of the principal of the company.

Re: [REDACTED]

Section 501(c)(3) of the Code describes organizations organized and operated exclusively for religious, charitable, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more purposes specified in that section. If an organization does not meet either the organizational or the operational test, it is not exempt.

Section 1.501(c)(3)-1(d)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interest such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense. Among other activities, it includes relief of the poor and distressed, the advancement of religion, the advancement of education, and lessening the burdens of government.

Better Business Bureau v. United States, 326 U.S. 279 (1945) Ct. D. 1650, 1945 C.B. 375 holds that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption under section 501(c)(3) of the Code, regardless of the number or importance of exempt purposes.

Rev. Rul. 76-442, 1976-2 C.B. 148, holds that a nonprofit organization whose primary activity is the offering of free legal services for personal tax and estate planning to individuals who wish to make current and deferred gifts to charity as part of their overall tax and estate planning does not qualify for exemption under section 501(c)(3) of the Code. The revenue ruling concluded that aiding individuals in their tax and estate planning is not a charitable activity in the generally accepted legal sense. It recognized that funds might become available to charity as a result of the organization's planning assistance to individuals, however the benefit to the public was tenuous in view of the predominantly private purpose served.

Re: [REDACTED]

Because you have not carried on most of the activities listed in your by-laws we are limiting our consideration only to the two activities you have carried on. However, we should point out to you that, in our opinion, the listed activities are not necessarily charitable within the meaning of section 501(c)(3) of the Code.

Our review of the information you have submitted indicates that you operate in a manner similar to the organization described in Rev. Rul. 76-442, in that you are merely providing commercial services to individuals. Although the one individual you have helped may be a recovering alcoholic, you have not established that you have limited the potential pool of beneficiaries to members of a charitable class. Furthermore, and equally important, you have not shown how your program benefits the general public. Rather, the primary, if not sole, beneficiary appears to be the recipient of your services. Therefore, we are unable conclude that you are operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Code.

In addition, presuming that you could qualify for exemption under section 501(c)(3) of the Code, the information you have submitted indicates that you would be considered a private foundation within the meaning of section 509(a). As a private foundation you would be subject to the various excise taxes imposed by Chapter 42. These taxes include a tax imposed by section 4943(a) of the Code on your excess business holdings as that term is defined in section 4943(c)(1).

Your current activities include the purchase of a 50 percent equity interest in a corporation. It also appears that you contemplate engaging in similar transactions in the future. A holding of this magnitude would be an excess business holding within the meaning of section 4943(c)(1) of the Code and mean that, presuming you held this interest during any taxable year which ends during the taxable period, the section 4943 tax on excess business holdings would be imposed upon you.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this officer after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers,

Re: [REDACTED].

that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practice Procedures.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office. Also, the appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

Sincerely yours,

(signed) [REDACTED]

Chief, Exempt Organizations  
Rulings Branch 1